

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROBERT DEREK LURCH, JR., :
Plaintiff, : 19-CV-11254 (VEC) (OTW)
: against- : **ORDER**
THE CITY OF NEW YORK, et al., :
Defendants. :
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ONA T. WANG, United States Magistrate Judge:

On November 10, 2020, the *pro se* Plaintiff submitted an application requesting appointment of counsel. (ECF 44). In determining whether to grant a request for counsel, the Court must consider

the merits of plaintiff's case, the plaintiff's ability to pay for private counsel, his efforts to obtain a lawyer, the availability of counsel, and the plaintiff's ability to gather the facts and deal with the issues if unassisted by counsel.

Cooper v. A. Sargent Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989) (per curiam). As a threshold matter, plaintiff must demonstrate that his claim has substance or a likelihood of success in order for the Court to grant plaintiff's request for counsel. *See Hodge v. Police Officers*, 802 F.2d 58, 60 (2d Cir. 1986).

Having reviewed Plaintiff's application and given the proceedings to date, it is hereby ORDERED that Plaintiff's request for counsel is DENIED. In light of the District Court's March 29, 2021 Memorandum Opinion and Order (ECF 57) that dismissed the complaint and the May 11, 2021 Order to Show Cause why the case should not be dismissed with prejudice for failure to

prosecute under Rule 41(b), Plaintiff fails to meet the threshold burden that his claims have substance or a likelihood of success. *See Hodge*, 802 F.2d at 60.

IT IS FURTHER ORDERED that Clerk of Court close ECF 44 and mail a copy of this Order to the *pro se* Plaintiff.

SO ORDERED.

Dated: May 13, 2021
New York, New York

s/ Ona T. Wang

Ona T. Wang
United States Magistrate Judge